P21671.P08



GREENBLUM & BERNSTEIN, P.L.C.
Intellectual Property Causes
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Reston, VA 20191
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Attorney Docket No. P21671

In re application of: Toshiki KINDO et al.

Mail Stop Amendment
Group Art Unit: 3625

Application No. : 09/985,736

Filed : November 6, 2001

Examiner: Y. Gang

For : E-COMMERCE SYSTEM AND METHOD

Mail Stop Amendment
Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

Transmitted herewith is an **Election with Traverse** in the above-captioned application.

____ Small Entity Status of this application under 37 C.F.R. 1.9 and 1.27 has been established by a previously filed statement.

____ A verified statement to establish small entity status under 37 C.F.R. 1.9 and 1.27 is enclosed.

____ A Request for Extension of Time.

__X__ No additional fee is required.

The fee has been calculated as shown below:

Claims After Amendment	No. Claims Previously Paid For	Present Extra	Small Entity		Other Than A Small Entity	
			Rate	Fee	Rate	Fee
Total Claims: 25	25	0	x 9=	$	x 18=	$0.00
Indep. Claims: 6	6	0	x 44=	$	x 88=	$0.00
Multiple Dependent Claims Presented			+150=	$	+300=	$0.00
Extension Fees for ____ Month(s)				$		$0.00
			Total:	$	Total:	$0.00

* If less than 20, write 20
** If less than 3, write 3

____ Please charge my Deposit Account No. 19-0089 in the amount of $_____.

__N/A__ A check in the amount of $_____ to cover the filing/extension fee is included.

__X__ The U.S. Patent and Trademark Office is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 19-0089.

__X__ Any additional filing fees required under 37 C.F.R. 1.16.

__X__ Any patent application processing fees under 37 C.F.R. 1.17, including any required extension of time fees in any concurrent or future reply requiring a petition for extension of time for its timely submission (37 C.F.R. 1.136(a)(3)).

Bruce H. Bernstein
Reg. No. 29,027

Steven Wegman
Reg. No. 31,438

OIPE
APR 18 2005
PATENT & TRADEMARK

P21671.A05

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Toshiki KINDO et al.

Appl No. : 09/985,736

Filed : November 6, 2001

For : E-COMMERCE SYSTEM AND METHOD

Group Art Unit: 3625

Examiner: Y. Gang

Confirmation No.: 4235

RESPONSE TO SPECIES RESTRICTION REQUIREMENT, WITH TRAVERSE

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop _____
Randolph Building
401 Dulany Street
Alexandria VA 22314

Sir:

ELECTION

In response to the Examiner's restriction requirement mailed on March 18, 2005, in which the one month shortened statutory period for responding thereto runs to April 18, 2005, Applicants elects the invention identified by the Examiner as Invention I, directed to an e-commerce system having a merchandise distribution unit, a plurality of consumer terminals, and a clearing unit. Further, Applicants elect to prosecute the species of invention I identified as including claims 1-7, but traverse the restriction requirement, for the reasons expressed below. Claims 1-5 are submitted to be generic.

TRAVERSE

Applicants respectfully traverse the restriction requirement set forth by the Examiner, and respectfully request that all of the claims in the instant application be examined, pursuant to the guidelines set forth in M.P.E.P. § 803. That is, the Examiner is respectfully requested to reconsider the requirement and find that there would not appear to be a

"serious burden" on the U.S. Patent and Trademark Office in examining claims directed to the non-elected species, since the search for the species identified by the Examiner would be coextensive or at least significantly overlap.

Applicants submit that if the Examiner were to perform a search for the species defined by claims 1-7, there would not be a serious burden in examining the remaining species of Invention I (e.g., claims 8-14), especially since all of the claims are directed to features defined in the elected species.

Because the search of each of the species of Invention I would be co-extensive, it would not be a serious burden on the Examiner to examine all of the claims in Invention I. For this reason, and consistent with office policy as set forth in M.P.E.P. § 803, Applicants respectfully request that the Examiner reconsider and withdraw the Election of Species Requirement.

Further, Applicants that all of the non-elected inventions identified by the Examiner (e.g., Inventions II-V) should be examined with Invention I. The Examiner has acknowledged that non-elected Inventions II through V are classified in class 75, subclass 26, which is the same class/subclass classification for elected Invention I. Accordingly, Applicants submit that the search for elected the species would necessarily include a search of the non-elected inventions. As the search of each of the non-elected inventions would be co-extensive with the elected invention (species), Applicants submit that it would not be a serious burden on the Examiner to examine all of the claims in the application. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the restriction requirement, and examine all of the claims in the application.

For the foregoing reasons, it is submitted that the restriction requirement in this application is improper and it is respectfully requested that it be reconsidered and withdrawn.

Should there be any questions, the Examiner is requested to contact the undersigned at the below listed telephone number.

Respectfully submitted,
Toshiki KINDO et al.

Bruce H. Bernstein
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Steven Wegman
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April 18, 2005
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